

REMARKS

Claims 1-11, 13-23, 26-32, 35-37 and 39-42 are currently pending in the subject application and are presently under consideration. In a Final Office Action dated June 6, 2008, all claims were rejected. In the present response, Applicants amend claims 1, 8, 15, 26, 35, 39, and 41, and traverse the rejections as follows.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-11, 13-23, 26-32, 35-37 and 39-42 Under 35 U.S.C. §103(a)

Claims 1-11, 13-23, 26-32, 35-37 and 39-42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Beshai et al. (6,034,960) in view of Ketseoglous et al. (5,732,076). In the Final Office Action, it was alleged that Beshai *et al.* teaches all of the elements of Applicants' claims, except that Beshai *et al.* does not disclose explicitly the temporal scattering dividing time slot data into at least two temporally non-contiguous time intervals. It was further alleged that Ketseoglous *et al.* teaches this element, and that it would have been obvious for one skilled in the art to combine the teachings of Beshai *et al.* and Ketseoglous *et al.* to arrive at Applicants' claimed subject matter.

Applicants do not believe that Beshai *et al.* teaches "***wirelessly receiving, at a terminal device, one or more scattering instructions, the scattering instructions providing information for partitioning said data into intervals, each interval shorter in duration than each of said predetermined time slots, and placing at least two of said intervals into at least one of said communication frames***", as recited in claims 1, 8, 15, 26, and 35. It was alleged that Beshai *et al.* teaches this feature in Figure 7 and column 5, lines 1-7 and column 8, lines 16-28. Applicants disagree. Applicants note that for a 103 rejection to be maintained, the combined references must teach ***each and every element*** of Applicants' claims. Specifically, the cited references must teach:

- a) wirelessly receiving, at a terminal device, one or more scattering instructions, ***and***
- b) the scattering instructions providing information for partitioning said data into intervals, each interval shorter in duration than each of said predetermined time slot

Applicants maintain that Beshai *et al.* fails to teach both of these sub-elements as recited in claims 1, 8, 15, 26, and 35, either in the cited passages or anywhere else in Beshai *et al.*

With regard to sub-element a), above, Applicants note that the Final Office Action fails to address how either of the cited references teaches a terminal device that wirelessly receives scattering instructions. Rather, the Final Office Action only discusses how the reference allegedly teaches scattering instructions. Thus, Applicants do not believe that a *prima facie* case of obviousness has been presented, and further believes that the rejection should be withdrawn on this basis alone.

However, even assuming, *arguendo*, that a *prima facie* case of obviousness has been properly established, neither reference teaches sub-element a), above. Beshai *et al.* teaches a communications **switch** (i.e., infrastructure equipment, **not** a terminal device as claimed) that processes different streams of information destined for remote devices, as shown in figure 1 of Beshai *et al.*. The processing consists of a scheduler 5 that determines how to multiplex multiple streams of data 6 onto a single, outgoing data stream 4. However, there is no teaching or suggestion, in either Beshai *et al.* or Ketseoglous *et al.*, that the scheduler 5 receives instructions for multiplexing the data streams wirelessly. In other words, neither of the cited references teach “wirelessly receiving, at a terminal device, one or more scattering instructions” as recited in Applicants’ claims. Therefore, since neither Beshai *et al.* nor Ketseoglous *et al.* teach this sub-element of Applicants’ independent claims, the rejection under 35 U.S.C. 103(a) should be withdrawn.

Applicants further believe that the rejection to claims 1, 8, 15, 26, and 35 should be withdrawn because neither Beshai *et al.* nor Ketseoglous *et al.* teach sub-element b), above, i.e. “the scattering instructions providing information for partitioning said data into intervals, each interval shorter in duration than each of said predetermined time slots”. Beshai *et al.* teaches a communication system that transmits data in frames and time slots. Figure 2 illustrates a “scheduler frame” filled with time slots, each time slot representing data to be transmitted for each data stream in the system.

Beshai *et al.* further describes that the *time-slots themselves* are scattered throughout a transmission frame, as pointed out in the Final Office Action in column 8, lines 16-20 and Figure 7. In contrast, Applicants claim “partitioning said data into intervals, *each interval shorter in duration than each of said predetermined time slots...*” In other words, Applicants scatter data

contained *within* a time slot while Beshai *et al.* teaches the scattering of *entire* time-slots. This important difference requires that the rejection under 35 U.S.C. 103(a) be withdrawn, because neither Beshai *et al.* nor Ketseoglous *et al.* teaches the aforementioned claim feature.

Applicants further believe that all claims dependent on claims 1, 8, 15, 26, and 35 are likewise allowable as being dependent on what Applicant believes to be allowable claims.

With regard to claims 39 and 41, both of these claims recite dividing data “into at least two temporally non-contiguous time intervals, each time interval having a duration shorter than a time slot duration” or similar language. As explained above with respect to the rejection to claims 1, 8, 15, 26, and 35, neither Beshai *et al.* nor Becker *et al.* teaches this feature of dividing data into intervals smaller than a time-slot and arranging the intervals into a non-contiguous arrangement. Therefore, Applicants believe that the rejection to claims 39 and 41 should be withdrawn. Applicants further believe that claims 40 and 42 are likewise allowable as being dependent on what Applicant believes to be allowable claims.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [QUALP853USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,
AMIN, TUROCY & CALVIN, LLP

/Himanshu S. Amin/
Himanshu S. Amin
Reg. No. 42,181

AMIN, TUROCY & CALVIN, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731